

REMARKS

In order to more clearly describe the claimed invention, a number of sentences, or partial sentences, presented in the originally filed specification and/or claims and/or Abstract have been duplicated and added in other portions of the specification. No new matter has been added; applicants have simply provided redundant descriptors where appropriate in order to emphasize that all assay resources other than the initially throughput limited (reagent addition) resource are capable of handling a higher throughput. Just as the cuvette ports are initially underutilized, and their use is increased as throughput limiting resources are added, all assay resources other than the initially throughput limited (reagent addition) resource are initially underutilized, and their use is increased as throughput limiting resources are added. Claim 7 has been amended to make this distinction more clear.

Drawing Corrections

A replacement Figure 2 marked "Prior Art" accompanies this communication, as requested.

Claim Rejections –35 USC §112, first paragraph

Claims 1-6 have previously been rejected as failing to comply with the enablement requirement of 35 U.S.C. first paragraph. The Examiner correctly notes that the present method requires that the reagent addition resources be initially throughput limiting and that the other assay resources be capable of handling a higher throughput. The previous rejection appears to be based on the Examiner's concern that the specification is scarce in describing how the other assay resources are capable of handling higher throughput when additional reagent add probes are installed on the analyzer.

Applicants believe that the specification is fully enabling to one of ordinary skill in the art in view of several specific descriptions. For example, paragraph [0023] specifies that "It is important in the present teaching that analyzer 10 be originally designed and configured so that space and other assay operational devices are also initially adapted to accommodate the addition of throughput limiting resources." Given this teaching, an

artesian would readily recognize that "other assay operational devices" would initially be configured with an appropriate capacity to accommodate the addition of additional (reagent) resources and would therefore be underutilized while the analyzer was throughput limited by reagent resources.

Paragraph [0030] in particular provides two specific example of this requirement wherein:

"initially configuring analyzer 10 such that the full number of available cuvette ports 20 is underutilized"; and

"other assay operational devices, for instance incoming and outgoing sample tube transport system 36 like seen in FIG. 5, are also initially adapted to accommodate the addition of throughput limiting resources."

Fig. 5 depicts an initial configuration of analyzer 10 wherein a single reagent server 26 enables a maximum throughput of 1000 assays per hour (in a hypothetical single reagent add assay). In this simple embodiment, the addition of an additional reagent resource (illustrated in Fig. 6) doubles throughput because both reagent resources can add reagent to a cuvette simultaneously. In this instance, additional ones of the initially underutilized cuvette ports are used to conduct an assay. Based on the disclosure of initially underutilized cuvette ports and sample tube transport system, applicants believe that an artisan would readily recognize that all other required assay operational devices would also initially be configured with an appropriate capacity to accommodate the addition of additional (reagent) resources and would therefore be underutilized while the analyzer was throughput limited by reagent resources.

Claim Rejections –35 USC §102(b)

Claims 1-6 have previously been rejected under 35 USC 102(b) as being anticipated by Jones (US 3,615,239). The Examiner cites Jones for teaching that the number of diagnostic tests to be performed by the analyzer may be increased by adding a further module. In the instance of Jones, however, each module is designed to implement a different assay and additional modules are added in order to add a new

different assay to the analyzer's menu. Thus, Jones' modular programming disk has the effect of adding different assays to the analyzer's menu and does not affect throughput of the analyzer as does Applicants' claimed invention.

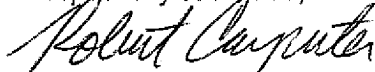
Claim Rejections –35 USC §103(a)

Claims 1-5 have previously been rejected under 35 USC 103(a) as unpatentable over Berglund (US 4,459,265) or Minekane (US 4,906,433) in view of Jones (US 3,615,239). Berglund does not teach modular configuration for the additional reagent-supply stations. Minekane's teachings are similar to Berglund's

Since Jones does not disclose the step of initially configuring the analyzer with reagent resources that are throughput limiting in conducting a certain group of assays, the combination of Berglund and/or Minekane and Jones fails to make Applicants' invention unpatentable because no modification of the references teaches or even suggests initially configuring an analyzer with reagent resources that are throughput limiting for conducting a certain group of assays and at the same time configuring the analyzer with all other assay resources that are not throughput limiting for conducting the same assays.

Applicants believe that this application contains patentable subject matter disclosed in an enabling manner and that the foregoing arguments provide a basis for favorable consideration and allowance of all claims; such allowance is respectfully requested. If any matter needs to be resolved before allowance, the Examiner is encouraged to call Applicants' representative at the number provided below.

Respectfully submitted,



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